IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 189 (S/S) OF 2006

Mukesh Kumar Gupta,
S/o late Sri Banarsi Das Mittal,
R/o Mohallakhatiyan Dhampur,
District Bijnor. .....Petitioner.

Versus

1. State of Uttaranchal, through Secretary Irrigation, Department, Uttaranchal Sashan, Dehradun.
2. Chief Engineer, Department of Irrigation Yamuna Colony, Dehradun.
3. Superintendent Engineer, Manari Bhali, Construction Division Joshiyara, Uttarkashi.
4. Executive Engineer Manari Bhali, Construction Division, Shakti Puram, Chiniyal Saud, Uttarkashi.

.....Respondents.

Dated: 22.02.2006

Hon'ble Rajesh Tandon, J.

By the present writ petition, the petitioner has prayed for a writ of mandamus commanding the respondent to absorb the petitioner on the post of Supervisor as per direction of the Hon'ble High Court of Allahabad.

During the course of the argument, the petitioner has confined his prayer only for disposal of the representations dated 5th August, 1989 and 4th March, 2005 (Annexure No. 10 and 11 to the writ petition).

Brief facts giving rise to the present writ petition are that the petitioner was initially appointed as Supervisor (H.R.T.) under work charge establishment in the office of the Executive

Engineer Manari Bhali Construction Division Phase-II Shakti Puram, Chiniyali Saud by means of order dated 31.12.1981. The aforesaid appointment was made on the basis of ad-hoc appointment. Though the appointment of the petitioner was only for a period of 28.02.1982 but due to exigency of the work, the extension was given to the petitioner in different intervals of time and it was further extended up to 30.06.1982.

Thereafter, the petitioner continued on the said post up to 1987 and again up to 1989.

The petitioner was terminated by means of order of Assistant Engineer of Manari Bhali Construction Division on 13.01.1989.

According to the submission of the petitioner, High Court of Allahabad had directed to prepare seniority list cadrewise in accordance with law as will appear from the office order dated 15th December, 1988:-

विषयः– श्री मुकेश कुमार गुप्ता तथा दलबीर सिंह के पुर्ननियुक्ति के सम्बन्ध में।

प्रिय महोदय,

उपरोक्त विषयक कृपया अपने पत्रांक 4086/ मभस्टेज –2 मं0/डबलू, दिनांक 28.7.88 एवं पत्रांक 5046 6005/मभास्टेज /2मं0 दिनांक क्रमश 3.8.88 व 5.11.88 का अवलोकन करें जिसके द्वारा आपने उपरोक्त कर्मचारी का प्रत्यावेदन भेजा है।

इन प्रत्यावेदनों के सम्बन्ध में अवगत कराना है कि श्री मुकेश कुमार गुप्ता तथा बलबीर सिंह की प्रथम नियुक्ति तिथि 1. 1.82 है तथा माननीय उच्चतम न्यायालय के आदेशनुसार बनाई गई वरिष्ठतासूची में इनका नाम क्रमशः 1862 तथा 1862 पर है कार्यप्रभारित अधिष्ठान में कार्यपर्यवेक्षकों की पुर्ननियुक्ति वरिष्ठता क्रमांक 304 नियुक्ति तिथि 20.6.80 की गयी है। आवश्यकतानुसार क्षेत्रीय अधिकारियों से रिक्त पदों की सूचना उपलब्ध होने पर उनकी पुर्ननियुक्ति माननीय सर्वोच्च न्यायालय के निर्देशानुसार वरिष्ठता के आधार पर ट्रेड वाइच की जायेगी।

प्रत्यावेदन के पैरा 3 में अंकित बिन्दु परसूचना के मुख्य अभियन्ता मुस्तर 11 तथा यमुना के यहां दैनिक वेतन भोगी के रूप में कार्यवेक्षक लगे है सम्बन्धित मुख्य अभियन्ताओं के रिक्तियों की सूचना प्राप्त होने पर वरिष्ठता क्रम के अनुसार कार्यप्रभारित पद पर की जायेगी।

उपर्युक्तविवरण के आधार पर श्री मुकेश कुमार गुप्ता तथा बलबीर सिंह का प्रत्यावेदन निरस्त किया जाता है।

मुझे यह भी ज्ञात करने का निदेश हुआ है कि अन्य दो कर्मचारियों की सेवायें अब तक क्यों नही समाप्त की गयी।''

In view of the office order dated 15th December, 1988, the respondent no. 2 is directed to decide the representation of the petitioner within a period of three months form the filing of the certified copy of the order on its own merits according to the statutory rules as per directions of the Hon'ble High Court of Allahabad.

Writ petition is disposed of. No order as to costs.

(Rajesh Tandon, J.)

22.02.2006
Rathour